



hearing is necessary. For the reasons stated below, the defendants' motion, construed as a motion for summary judgment, shall be granted as to the federal claims; the state law claims shall be dismissed without prejudice.

### **BACKGROUND**

On July 8, 2005, Mr. Williamson was among approximately 188 passengers scheduled to fly to Kingston, Jamaica aboard Air Jamaica flight number 40, departing Baltimore-Washington International ("BWI") Airport at 8:30 a.m. The flight boarded normally, but unfortunately did not take off for roughly three hours, during which time the passengers became increasingly frustrated by the delay, the heat of the plane's cabin, and other annoyances. Eventually, the passengers were instructed to disembark and return to the boarding gate, where they were made to wait through several more announcements. Finally they were told that flight number 40 was postponed, and that they should return to the Air Jamaica ticket counter to obtain meal vouchers and/or book a different flight if they so desired.

By the time the passengers assembled at the Air Jamaica ticket counter, they were noticeably agitated. Mr. Williamson recalls that by the time he arrived in the vicinity of the

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*id.* at 129), as were two of the officers involved – Officers Grant and Pratt. (*See* Def.'s S.J. Mot. at Ex. 1, Trial Trans. at 2-111; Def.'s S.J. Mot. at Ex. 2, Williamson Dep. at 133; Pl.'s Opp. at Ex. 1, O'Connor Dep. at 12, 20, & 22-23.) No inference of selective enforcement can be drawn where no other persons – of any race – were arrested, and where his arrest was carried out in large part by another African American (Officer Grant). More importantly, Mr. Williamson has brought forward no evidence showing that his arrest was the product of "a deliberate selective process of enforcement based upon race" by the Maryland Transportation Authority, a showing which he is required to make in order to succeed on his selective enforcement claim. *See Butler v. Cooper*, 554 F.2d 645, 646 (4th Cir. 1977). Accordingly, Count I will be dismissed with respect to its Fourteenth Amendment allegations for failure to state a claim. *See* Fed. R. Civ. P. 12(b)(6); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

ticket counter, the scene was “probably not quite chaos yet but bordering. There was a lot of frustration,” with people hollering and making a lot of commotion. (Def.’s S.J. Mot. at Ex. 2, Williamson Dep. at 119-20; *see* Def.’s S.J. Mot. at Ex. 8, Colvin Dep. at 42 (describing the scene as “just crazy” and “chaotic”).) The airline had set up two lines, one on the left of the counter for re-booking, and one on the right of the counter for meal vouchers, although passengers had not lined up in an orderly fashion, but had rather formed a large crowd in front of the counter, with many pressing right up against it. Wanting information on re-booking, Mr. Williamson walked around the crowd and up to the lefthand side of the ticket counter so that he could hear what the airline agent there, Ms. Lorna Hentley, was saying about re-booking options. This positioned him at the left edge of the crowd and very near its front, just a few feet from the Air Jamaica ticket counter and near the adjacent Iceland Air counter to its left.

At around this time, Ms. Hentley announced that the flight was going to be delayed further, and that the airline planned to use an inbound plane, arriving into BWI at 9:00 p.m., to take the passengers to Jamaica. Her announcement was interrupted by yelling from the crowd, and once it had been made, “everything just went crazy.” (Def.’s S.J. Mot. at Ex. 8, Colvin Dep. at 36; *see* Def.’s S.J. Mot. at Ex. 7, Hentley Dep. at 37 (recounting that “everybody was shouting” after she made her announcement).) At this point, given the increasingly unruly behavior of the crowd, Ms. Hentley asked her colleague at the ticket counter, Ms. Arlyce Colvin, to call the Maryland Transportation Authority (“Authority”) police for crowd control, which she did.<sup>3</sup>

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<sup>3</sup> At about this time, U.S. Air Force staff sergeant Reagan O’Connor, stationed at BWI, had noticed the troubling commotion and had also called the Authority police for assistance. (Pl.’s Opp. at Ex. 1, O’Connor Dep. at 3 (“All of the passengers . . . just got really angry,

The first police officer to arrive at the scene was Officer Pratt. Seeing the size<sup>4</sup> and demeanor of the crowd as she approached, she called for back up. (*See* Def.'s S.J. Mot. at Ex. 3, Pratt Dep. at 17 (describing the scene in this way: "The crowd was angry. They were shoulder to shoulder actually at the counter for Air Jamaica, yelling across the counter to agents."); *see id.* at 21.) When she reached the front of the crowd, she stood up on the baggage scale between the Air Jamaica and Iceland Air counters, announced – incorrectly – that the flight was cancelled, and then ordered the passengers to move away from the counter. Mr. Williamson admits hearing both the cancellation announcement and the order to move away from the counter, and further admits not complying with any such order until Officer Grant arrived. (Def.'s S.J. Mot. at Ex. 2, Williamson Dep. at 137-39 & 141.) Officer Pratt's mistaken announcement caused the crowd to become even louder and more unruly, and her order to move away from the counter was ignored. (*See* Def.'s S.J. Mot. at Ex. 8, Colvin Dep. at 44 (recalling the crowd's reaction to Officer Pratt's mistaken announcement as "[i]nsanity, totally, insanity"); *id.* at 46 (observing that the crowd "lunged forward" after her announcement).) Officer Pratt recalls making the announcement to move away from the counter many times to no avail. (Def.'s S.J. Mot. at Ex. 3, Pratt Dep. at 19.)

Officer Grant arrived on the scene at about this time. Upon arriving, he came up to the front of the crowd, ordered crowd members to move away from the ticket counter, and then began to move along the front of the counter and physically move people away from it. Mr.

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disorderly, loud. And I thought I needed to call the police, because incidents like that, you know, personnel here (inaudible) protect our fellow employees.".)

<sup>4</sup> Accounts differ on how many of the 188 passengers from the flight were in the crowd, but it appears that at least 135 were present. (*See, e.g.,* Def.'s S.J. Mot. at Ex. 1, Trial Trans. at 2-200 (Williamson recalling the number as 150 people or more); Def.'s S.J. Mot. at Ex. 5, Urban Dep. at 13 (estimating the crowd at 135); Def.'s S.J. Mot. at Ex. 6, Lloyd Dep. at 11.)

Williamson remembers hearing this instruction, and testified that he obeyed by stepping back. (Def.'s S.J. Mot. at Ex. 2, Williamson Dep. at 139, 141, 146-47, & 152.) Officer Grant remembers it differently. After ordering people "several times" to back away, he alleges he noticed that "an unidentified individual, who is known to be Mr. Williamson, did not move away from the ticket counter [and was] having a belligerent conversation with the ticket counter personnel."<sup>5</sup> (Def.'s S.J. Mot. at Ex. 4, Grant Dep. at 43.) Regardless of what was heard or said at that moment, it is undisputed that Officer Grant then pushed Mr. Williamson in the chest to move him away from the counter.

At this point, accounts differ greatly. Mr. Williamson contends that, when he was pushed, he backed up and said something to the effect of "Why are you pushing me? I'm already backing up." (Def.'s S.J. Mot. at Ex. 2, Williamson Dep. at 152; *see* Compl. ¶ 17.) His apparent compliance and statements had no effect, though, as Corporal Urban presently appeared on the scene, said "He's going down," and then jumped on his back. (*Id.* at 153.) Simultaneously, Officer Lloyd, also newly on the scene, scooped Mr. Williamson's legs out from under him so that he would fall to the ground, at which point all four men – Williamson, Grant, Urban, and Lloyd – fell onto the baggage scale between the Air Jamaica and Iceland Air counters, and a struggle ensued. Mr. Williamson recalls falling head-first onto the scale, being put in a stranglehold by Officer Grant, and being repeatedly hit on his wrist with handcuffs by Officer Urban, but cannot remember much else about the altercation until he was outside the airport afterward in handcuffs, awaiting transport to the police station. (*See id.* at 164 ("To this

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<sup>5</sup> This recollection is corroborated by the testimony of Officer Pratt, who remembers Mr. Williamson remaining standing at the front of the crowd despite more than one command from Officer Grant to move back. (Def.'s S.J. Mot. at Ex. 3, Pratt Dep. at 30.)

day I don't know how my hands got behind my back. I don't even know how I got outside.”.)

Officer Grant contends that, after he shoved Mr. Williamson away from the counter, Mr. Williamson “took a defensive stand by balling his fists up” and stiffening his arms “as if he [was] ready to fight.” (Def.’s S.J. Mot. at Ex. 4, Grant Dep. at 60-61; *see* Def.’s S.J. Mot. at Ex. 3, Pratt Dep. at 30 & 36 (remembering seeing Mr. Williamson stiffen his arms, ball his fists, and thrust his chest out after being pushed); Def.’s S.J. Mot. at Ex. 5, Urban Dep. at 20 (remembering seeing Mr. Williamson “tense[] up”); Def.’s S.J. Mot. at Ex. 6, Lloyd Dep. at 26 (“he clenched his fists and lunged towards Officer Grant”).) He also asserts that Mr. Williamson said something like “I am solid muscle.” (*Id.* at 62; *see* Def.’s S.J. Mot. at Ex. 5, Urban Dep. at 12 (remembering Mr. Williamson making “defiant statements” to Officer Grant “to the effect that he was not going to comply with Officer Grant’s order”).) Officer Grant then recalls Corporal Urban arriving and ordering him to arrest Mr. Williamson. (*See* Def.’s S.J. Mot. at Ex. 5, Urban Dep. at 18-19 (Corporal Urban recalling directing Officer Grant to arrest Mr. Williamson with the phrase: “He is going downtown”).) Officer Grant then told Mr. Williamson he was under arrest, and Mr. Williamson replied, “you can’t arrest me,” and when Officer Grant then reached for his right arm to put it behind his back, he resisted by pulling away. (Def.’s S.J. Mot. at Ex. 4, Grant Dep. at 70-72; *see* Def.’s S.J. Mot. at Ex. 5, Urban Dep. at 20.)

Seeing Mr. Williamson’s resistance, Corporal Urban immediately began to assist Officer Grant by grabbing Mr. Williamson’s right arm from behind, but at this point he and the other officers fell onto the baggage scale, with Corporal Urban landing on the bottom, beneath Mr. Williamson. In the ensuing scuffle, Mr. Williamson allegedly kicked and flailed his arms and

otherwise resisted arrest, despite repeated orders by Officer Grant and Officer Urban to stop resisting. (Def.'s S.J. Mot. at Ex. 4, Grant Dep. at 75-77 & 84; *see* Def.'s S.J. Mot. at Ex. 6, Lloyd Dep. at 31 (hearing someone saying "[s]top resisting") & 36 (describing Mr. Williamson as "flailing and kicking on the scale"). His actions caused Officer Grant "[e]xcruciating pain" (Def.'s S.J. Mot. at Ex. 4, Grant Dep. at 91), and Officer Grant would later have to undergo months of physical therapy for a shoulder injury he sustained during the altercation. Officer Lloyd claims he got involved in the scuffle at this point by forcibly moving Mr. Williamson off of Corporal Urban and onto the ground for handcuffing. In the process, Mr. Williamson landed on Officer Lloyd's right hand, fracturing it. Mr. Williamson was finally cuffed, lifted off the ground, and escorted outside to a patrol car. He was then taken into custody and later released on bail.

Mr. Williamson contends that he sustained several injuries during the arrest, including a bruise on his head from the fall, injuries to both shoulders, a sore back, and swelling and lacerations at his wrists from the handcuffs. When he went to the hospital for an examination after his release from police custody, he says he was also given a neck brace, a sling for his left arm, and pain medications. Most of these injuries have since healed.<sup>6</sup>

As a result of this altercation, the State of Maryland brought criminal charges against Mr. Williamson in the Circuit Court for Anne Arundel County, charging him with one count of disorderly conduct in violation of Md. Code Ann., Crim. Law § 10-201(c)(2); one count of failure to obey a reasonable and lawful order of a law enforcement officer in violation of Md.

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<sup>6</sup> Although he claims injuries to his left thumb and shoulder have never fully healed, he admits never having sought treatment for any of his injuries after that initial hospital visit. (Def.'s S.J. Mot. at Ex. 2, Williamson Dep. at 167-170.)

Code Ann., Crim. Law § 10-201(c)(3); one count of resisting lawful arrest in violation of Md. Code Ann., Crim. Law § 9-408(b)(1); and two counts of assault (against Officers Grant and Urban) in violation of Md. Code Ann., Crim. Law § 3-203(c)(2). A bench trial was held on these charges on March 16 and May 31, 2006, and Mr. Williamson was found not guilty on all counts. Mr. Williamson now brings this civil action.

### ANALYSIS

Where matters outside the pleadings are considered by the court, a defendant's motion to dismiss will be treated as one for summary judgment under Rule 56. *See* Fed. R. Civ. P. 12(b) & (c); *Gay v. Wall*, 761 F.2d 175, 177 (4th Cir. 1985). Rule 56(c) of the Federal Rules of Civil Procedure provides that summary judgment:

should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.

Fed. R. Civ. P. 56(c). The Supreme Court has clarified this does not mean that any factual dispute will defeat the motion:

By its very terms, this standard provides that the mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact.

*Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986) (emphasis in original).

“A party opposing a properly supported motion for summary judgment ‘may not rest upon the mere allegations or denials of [his] pleadings,’ but rather must ‘set forth specific facts showing that there is a genuine issue for trial.’” *Bouchat v. Baltimore Ravens Football Club, Inc.*, 346 F.3d 514, 525 (4th Cir. 2003) (alteration in original) (quoting Fed. R. Civ. P. 56(e)).

The court must “view the evidence in the light most favorable to . . . the nonmovant, and draw all reasonable inferences in her favor without weighing the evidence or assessing the witness’ credibility,” *Dennis v. Columbia Colleton Med. Ctr., Inc.*, 290 F.3d 639, 644-45 (4th Cir. 2002), but the court also must abide by the “affirmative obligation of the trial judge to prevent factually unsupported claims and defenses from proceeding to trial.” *Bouchat*, 346 F.3d at 526 (internal quotation marks omitted) (quoting *Drewitt v. Pratt*, 999 F.2d 774, 778-79 (4th Cir. 1993), and citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24 (1986)).

#### ***A. Federal § 1983 Claims and Qualified Immunity***

Defendants assert they are entitled to summary judgment on Mr. Williamson’s federal false arrest and excessive force claims on grounds of qualified immunity. “The doctrine of qualified immunity protects government officials ‘from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Pearson v. Callahan*, --- U.S. ----, 129 S.Ct. 808, 815 (2009) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). This protection is extended to “all but the plainly incompetent or those who knowingly violate the law.” *Malley v. Briggs*, 475 U.S. 335, 341 (1986). In *Saucier v. Katz*, 533 U.S. 194 (2001), the Supreme Court held that a court considering a federal claim of qualified immunity must proceed in two steps. First, it must consider the threshold question of whether the facts alleged, taken in the light most favorable to the plaintiff, show that the officers’ conduct violated a constitutional right. 533 U.S. at 201. If the court finds no constitutional violation, then there is no need to inquire further into qualified immunity. *Id.* at 201. If, however, the court finds a constitutional violation, then it must proceed

to the second step: determining whether the right was “clearly established” at the time of the violation. *Id.*

Recently in *Pearson*, the Supreme Court relaxed *Saucier*’s “inflexible requirement” of a two-step analysis. *Pearson*, 129 S.Ct. at 813. It held as follows:

On reconsidering the procedure required in *Saucier*, we conclude that, while the sequence set forth there is often appropriate, it should no longer be regarded as mandatory. The judges of the district courts and the courts of appeals should be permitted to exercise their sound discretion in deciding which of the two prongs of the qualified immunity analysis should be addressed first in light of the circumstances in the particular case at hand.

*Id.* at 818. The Court acknowledged that, while there are cases for which the two-step procedure is beneficial, there are also cases for which an adherence to that procedure would waste judicial resources and potentially create a risk of bad decisionmaking. *Id.* at 818-20. It therefore deferred to “judges of the district courts and the courts of appeals” to “determine the order of decisionmaking [that] will best facilitate the fair and efficient disposition of each case.” *Id.* at 821.

Because, on the facts as alleged, this case presents a close question as to the constitutionality of the arrest and the force used, I will proceed to the second step of the qualified immunity analysis first. The second step of the qualified immunity analysis requires the court to ask “whether it would have been clear to a reasonable officer that his conduct was unlawful in the situation he confronted.” *Saucier*, 533 U.S. at 202. This determination is not made from the vantage point of “skilled lawyers and learned judges,” but rather from the vantage point of “an objectively reasonable official in similar circumstances at the time of the challenged conduct.” *Iko v. Shreve*, 535 F.3d 225, 238 (4th Cir. 2008) (internal quotations and citations omitted); *see*

*Graham v. Connor*, 490 U.S. 386, 397 (1989); *Orem v. Rephann*, 523 F.3d 442, 448-49 (4th Cir. 2008) (engaging in an objective reasonableness analysis to determine if qualified immunity applied); *Jones v. Buchanan*, 325 F.3d 520, 531 (4th Cir. 2003) (“[t]he standard is . . . one of objective reasonableness”). Accordingly, in order for qualified immunity protection not to apply, “[t]he contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right.” *Anderson v. Creighton*, 483 U.S. 635, 640 (1987).

The determination at this second step is also informed by prevailing cases at the time of the conduct in question that may have provided the officer with “fair warning” that his conduct was or was not constitutional. *See Buchanan*, 325 F.3d at 531-32. These cases, when factually similar, may provide “especially strong support for a conclusion that the law is clearly established,” though factually similar cases are not necessary to reach such a conclusion. *Id.* (internal quotations and citation omitted).

In short, if a reasonable officer could have believed his conduct was lawful, in light of the factual circumstances and prevailing case law at the time, then the court may apply qualified immunity. *See Iko*, 535 F.3d at 237-38 (quoting *Anderson v. Creighton*, 483 U.S. 635, 640 (1987)).

#### ***i. Unlawful Arrest***

Mr. Williamson first claims that his arrest constituted an unreasonable seizure in violation of the Fourth Amendment. By July 2005, the period when the disputed arrest occurred, it was clearly established that arrests not based upon probable cause are unconstitutional. *See*,

*e.g.*, *Dunaway v. New York*, 442 U.S. 200, 213 (1979); *Brown*, 278 F.3d at 367. The relevant question on this claim, then, is whether it was objectively reasonable for the defendants to believe that there was probable cause to arrest Mr. Williamson.

Probable cause is determined by examining “the totality of circumstances known to the officer at the time of the arrest.” *Brown*, 278 F.3d at 367. This examination is guided by two principles: first, that probable cause is a “practical, nontechnical conception” involving “factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act,” *Gomez v. Atkins*, 296 F.3d 253, 262 (4th Cir. 2002) (quoting *Brinegar v. United States*, 338 U.S. 160, 175-76 (1949)); second, that evidence of probable cause “must be seen and weighed not in terms of library analysis by scholars, but as understood by those versed in the field of law enforcement.” *Id.* (quoting *Illinois v. Gates*, 462 U.S. 213, 232 (1983).) Accordingly, for probable cause to exist, “there need only be enough evidence to warrant the belief of a reasonable officer that an offense has been or is being committed; evidence sufficient to convict is not required.” *Brown*, 278 F.3d at 367.

Here, the undisputed facts show that the defendants were confronted with a loud and angry crowd of roughly 150 passengers who were not obeying direct orders from Officer Pratt. The level of commotion had caused two airport employees to call for police assistance out of concerns for their safety, and had caused Officer Pratt to call for backup when she first arrived at the scene. When Officer Grant later arrived, he also had safety concerns. (Def.’s S.J. Mot. at Ex. 4, Grant Dep. at 150 (“the crowd could have gotten out of control and, you know, officers could get injured”).) The admitted noncompliance of Mr. Williamson and other members of the crowd with Officer Pratt’s orders in this volatile situation could constitute probable cause to

arrest for disobeying a reasonable and lawful order, and the undisputed unruliness of the crowd, which Mr. Williamson himself described as bordering on chaos, could give officers probable cause to arrest for disorderly conduct. *See Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001); *Carter v. Jess*, 179 F. Supp. 2d 534, 546 (D. Md. 2001) (finding probable cause to arrest where plaintiff failed to obey lawful order to exit crime scene); *see also Spry v. State*, 914 A.2d 1182, 1188 (Md. 2007) (failure to move when told by an officer to do so “may endanger the public peace” and “amount[] to disorderly conduct”) (internal quotations and citation omitted).

Beyond this evidence of noncompliance among the crowd generally, however, Officer Grant reasonably believed Mr. Williamson in particular to be noncompliant. When he gave orders to move away from the ticket counter, he recalls seeing Mr. Williamson fail to do so. When he then pushed Mr. Williamson to force him to obey the order,<sup>7</sup> all officers testified that Mr. Williamson, rather than submitting to police authority, took a defensive posture. Corporal Urban, who ordered the arrest, reported seeing Mr. Williamson not only fail to comply with Officer Grant’s order but also proceed to make defiant statements of noncompliance to Officer Grant.

Viewing the above facts in the light most favorable to Mr. Williamson, but mindful of the totality of the circumstances known to the defendants at the time – including the heightened agitation of the crowd and the admitted noncompliance of Mr. Williamson, at least with Officer Pratt’s order – the court finds the defendants could have reasonably believed that there was probable cause to arrest Mr. Williamson. Accordingly, qualified immunity applies to this claim.

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<sup>7</sup> Such a push is not unreasonable under these circumstances. *See Graham*, 490 U.S. at 386; *see also infra* Subsection A.ii.

*Cf. Brown*, 278 F.3d at 368.

***ii. Excessive Force***

Mr. Williamson next claims that the defendants used unconstitutionally excessive force against him when making their arrest. By July 2005, it was clearly established that the force used by officers during an arrest will be found unconstitutional if it is not “objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” *Graham*, 490 U.S. at 397; *see, e.g., Buchanan*, 325 F.3d at 527 & 532. It was also clearly established that the objective reasonableness of the force used is to be considered with an eye both to the split-second judgments law enforcement officers are often compelled to make about degrees of force, *see, e.g., Graham*, 490 U.S. at 397, and the ambiguity of many law enforcement situations that may cause reasonable mistakes in calculations of the force required. This court must determine, then, whether the defendants’ belief in the lawfulness of their application of force was objectively reasonable, in light of the clearly established precedent above and the particular facts of this case.

The facts show that the scene the defendants faced at the Air Jamaica ticket counter was sufficiently volatile that all members of the crowd, particularly those nearest the ticket counter, could be perceived as posing an immediate threat to the safety of the airline agents, a perception bolstered by the fact that the agents themselves had called for police assistance. Officers Grant and Pratt distinctly remember Mr. Williamson refusing their multiple orders to move away from the ticket counter, and after Officer Grant pushed Mr. Williamson back, all defendants remembered seeing Mr. Williamson assume a defensive posture, raising the possibility that he

might pose a threat to the officers' safety. Once Corporal Urban ordered his arrest, Mr. Williamson's resistance to police commands appeared to continue unabated, even after he was on the ground, until defendants were able to handcuff him successfully.<sup>8</sup> (*See* Def.'s S.J. Mot. at Ex. 4, Grant Dep. at 77-95.)

Given the ambiguity and volatility of the situation the defendants confronted, the court finds that their belief in the lawfulness of the force used – force that ceased as soon as Mr. Williamson was restrained<sup>9</sup> – was not objectively unreasonable. Accordingly, qualified immunity applies to this claim as well. *See Saucier*, 533 U.S. at 208-09 (finding qualified immunity to apply where there was no clearly established rule prohibiting officer from grabbing protester and shoving him into a van during a potentially volatile situation).

### ***B. State Law Claims***

Mr. Williamson also brings a variety of state law claims, as to some of which, but not all, state law immunity may apply. Because no federal claims survive, this court declines to exercise supplemental jurisdiction over these remaining claims. 28 U.S.C.A. § 1367(c)(3); *see Jordahl v.*

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<sup>8</sup> Indeed, if the testimony of Officer Grant is to be believed, Mr. Williamson was so active in his resistance that Corporal Urban felt the need to consider using pepper spray to subdue him. (Def.'s S.J. Mot. at Ex. 4, Grant Dep. at 93.)

<sup>9</sup> This fact is important to the objective reasonableness inquiry, as it suggests that the force used was limited to ensuring the safety of those present. *Compare Wilson v. Flynn*, 429 F.3d 465, 468-69 (4th Cir. 2005) (finding no excessive force where police stopped using force after handcuffs were placed on plaintiff), *with Young v. Prince George's County*, 355 F.3d 751, 757-58 (4th Cir. 2004) (finding excessive force where officer placed already-handcuffed plaintiff in a headlock, threw him head-first to the ground, and then beat him, even though plaintiff was fully cooperating); *Bailey v. Kennedy*, 349 F.3d 731, 744 (4th Cir. 2003) (finding excessive force where, during an arrest, officers caused "severe injuries" to a man who posed no threat to the safety of others and whom they knew had committed no crime).

*Democratic Party of Virginia*, 122 F.3d 192, 203 (4th Cir. 1997) (finding no abuse of discretion where district court, after dismissing federal § 1983 claims, declined to exercise supplemental jurisdiction over the remaining state law claims). Accordingly, these claims shall be dismissed without prejudice.

### **CONCLUSION**

For the foregoing reasons, the defendants' motion to dismiss or, in the alternative, for summary judgment shall be construed as a motion for summary judgment and shall be granted as to the federal claims. A separate Order follows.

June 9, 2009  
Date

/s/  
Catherine C. Blake  
United States District Judge